

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA)	Cr. No. 15 CR 10146 FDS
)	
v.)	
)	
1. WILLIE BERRY , a/k/a “Sco,” and)	
a/k/a “Scodough,”)	
2. TONY BERRY , a/k/a “Mazibrawl,”)	
3. FRANCISCO ARIAS , a/k/a “Emilio)	
Perez,”)	
4. ANTONIO CHATMAN ,)	
5. DAVID COKE , a/k/a “Slime,”)	
6. ROSHAUN HAWKINS , a/k/a “Pretty,”)	
7. JUAN LARA , a/k/a “Miguel,”)	
8. DESMOND PERSON , and)	
9. JAMES WILLIAMS ,)	
Defendants.)	

GOVERNMENT’S RESPONSE TO COURT’S INQUIRY

Now comes the United States, by its attorneys, Carmen M. Ortiz, United States Attorney, and Emily O. Cummings and Michael J. Crowley, Assistant U.S. Attorneys, and responds to the this Honorable Court’s inquiry regarding the feasibility of providing defense counsel with individually-watermarked Discovery Materials and states as follows:

Following the Initial Status Conferences held on July 27, 2015 in 15-cr-10148, and 15-cr-10149, the undersigned attorney contacted support staff working in the USAO’s Litigation Support Department and inquired as to whether it was possible to individually-watermark discovery for each defendant’s account. In short, the answer is no, the USAfx platform does not allow for individualized-watermarking for each account that has access to the global Discovery Materials in this case (there are currently in excess of 8,500 pages in the USAfx file created for this case that has already been disclosed to 28 out of 48 defense counsel). However, the USAfx file

share site does allow for defense counsel to save some, or all, of the documents accessed in a “PDF” format. This format allows for each defense counsel to create an individual watermark of their own choosing and mark any pages they wish to print and provide to their clients (at no additional cost to defense counsel). The government informed this Honorable Court of this information at the Initial Status Conferences held on July 28, 2015.

As a result of learning this information and in conjunction with concerns raised at the July 27th and 28th hearing the government proposes the following:

- 1) That each counsel of record not disclose, copy, reproduce, share, or disseminate (or cause to be) the Discovery Materials given to him/her outside the members of the Defense Team as defined in the Protective Order except for as set forth in the Protective Order;
- 2) That each defendant endorse the attached non-disclosure order stating that he/she will not disclose, copy, reproduce, share, or disseminate (or cause to be) the Discovery Materials given to him/her by his/her counsel of record;
- 3) That counsel of record uniquely watermark all Discovery Materials provided to his/her respective client; and
- 4) That counsel of record provides the Court, ex-parte and under seal, with a written record documenting the unique watermark placed on the Discovery Materials provided to his/her client and the corresponding Bates numbers. (See Exhibit 1)

The government believes that this proposal addresses the government’s security and accountability concerns set forth in their July 16, 2015 Motion for a Protective Order as well as the various concerns raised by defense counsel regarding cost and attorney-client confidentiality.

A copy of a proposed Order and acknowledgement is attached hereto for the Court's convenience.

Respectfully submitted,

CARMEN M. ORTIZ
United States Attorney

By: /s/ Emily O. Cummings
Emily O. Cummings
Michael J. Crowley
Assistant U.S. Attorneys
(617) 748-3100

August 3, 2015

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Emily O. Cummings
Emily O. Cummings
Assistant United States Attorney

August 3, 2015